

FACTFINDING PROCEEDINGS PURSUANT TO
THE EDUCATIONAL EMPLOYMENT RELATIONS ACT

In the Matter of the Factfinding

FF-598

between

INGLEWOOD UNIFIED SCHOOL
DISTRICT (IUSD)

ISSUES: FACTFINDING: Impasse: (2001-
2002: Salaries; Psychologist Stipend; PAR
Program)

And

and

INGLEWOOD TEACHERS
ASSOCIATION (ITA)

Public Employment Relations Board
CaseNo.LA-IM-3140-E

Factfinding Panel:

Philip Tamoush
Impartial Chairperson

Lacy Alexander
District Appointed Member

Lee Lipps
Association Appointed Member

<u>Hearing Held</u>	<u>Record Closed</u>	<u>Report Issued</u>
August 4, 2003 Inglewood, California	August 27, 2003	September 8, 2003

Appearances:

For the District: Keith Breon

For the Association: Doug Appel

BACKGROUND AND SUMMARY OF FACTS

This factfinding is conducted pursuant to the Impasse Provisions of the Educational Employment Relations Act. It deals with several issues stemming from negotiations over a reopening of the whole agreement since the parties' then-current agreement had a termination date of June 30, 2002.

The parties have been at impasse over three items originally intended to be included in their comprehensive Agreement. These included possible adjustments to the certificated salary schedule for 2001-2002, Psychologist stipends for performing additional assessments outside the normal work day/work year, and adjustments to the Peer Assistance and Review (PAR) Program. The District did claim an 'inability to pay' based on limited financial resources.

Negotiations were held for a new Agreement over 21 bargaining sessions during 2001-2002. Impasse was declared in June, 2002, and mediation sessions convened on February-March, 2003. Factfinding was authorized and the Panel was appointed by the PERB on June 5, 2003. The Factfinding Panel waived the statutory time lines and met with the parties on August 4, to hear evidence and argument bearing on the issues. The advocate Panel members met with the negotiations spokespersons to explore possible settlements. The Panel met and conferred at other times subsequent to August 4 in attempts to discuss the issues and hopefully help resolve the parties' impasse. The Panel requested that the parties submit final positions to one another, but without complete settlement.

As described briefly below, the parties' differences lie primarily with their disagreement over the financial status of the District at the end of 2001-2002. The financial resources of the District were examined resulting in the discussion below. Bargaining for the 2000-2001 year and their positions regarding salaries for 2001-2002. The Panel considered the parties' positions on all the issues in developing its own recommendations.

RELEVANT STATUTORY LANGUAGE

3548.2 HEARINGS BY PANEL; CRITERIA FOR FINDINGS AND RECOMMENDATIONS

The Panel shall, within 10 days after its appointment, meet with the parties or their representatives, either jointly or separately, and may make inquiries and investigations, hold hearings, and take such other steps as it may deem appropriate. For the purpose of such hearings, investigations, and inquiries, the panel shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. The several departments, commissions, divisions, authorities, boards, bureaus, agencies, agency thereof, including any board of education, shall furnish information in their possession relating to any matter under investigation by or in issue before the panel.

In arriving at their findings and recommendations, the factfinders shall consider, weigh, and be guided by all the following criteria:

1. State and federal laws that are applicable to the employer.
2. Stipulations of the parties.
3. The interests and welfare of the public and the financial ability of the public school employee-employer.
4. Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in public school employment in comparable communities.
5. The consumer price index for goods and services, commonly known as the cost of living.
6. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits; the continuity and stability of employment; and all other benefits received.
7. Such other facts, not confined to those specified in paragraphs (1) to (6), inclusive, which are normally or traditionally taken into consideration in making such findings and recommendations.

3458.3 FINDINGS AND RECOMMENDATIONS; COSTS

(a) If the dispute is not settled within 30 days after the appointment of the panel, or, upon agreement by both parties, within a longer period, the panel shall make findings of fact and recommend terms of settlement, which recommendations shall be advisory only. Any findings of fact and recommended terms of settlement shall be submitted in writing to the parties privately before they are made public. The public school employer shall make such findings and recommendations public within 10 days after their receipt. (Educational Employment Relations Act)

In arriving at its conclusions and recommendations, the Factfinding Panel considered the above criteria.

RECOMMENDATIONS ON ISSUE AT IMPASSE

Below is the Panel's (or a majority thereof) considered opinion as to how the issues at impasse should be resolved. Very brief rationale/reasoning has been included since the parties are well aware of the facts and tight timelines require issuance of an expedited report.

The issues at impasse are:

1. Salary Changes: 2001-2002 (proposed by the Association)
2. Psychologist Stipend: Additional Assessments 2001-2002 (proposed by the Association)

3. PAR Program Changes (proposed by the District)

Issue No. 1 - Salary Changes

Recommendation; That the salary schedule for 2001-2002 be increased by 4.5% over the prior year, retroactive to July 1, 2001.

Rationale: The Association has requested a 6% on-schedule increase for the year. In its presentation, the Association provided extensive rationale and data from both District and State financial documents which it presented at the hearing. It also presented substantial information regarding the financial resources of the District.

The District presented financial information laying out its budgetary constraints and inability to pay any increase in 2001-2002.

The 4.5% recommendation herein is based on two considerations, primarily

a. **Financial Resources:** In order to assess the District's ability to pay an on schedule increase the Panel must first consider the District's finances for the year in dispute, 2001-02, and its ability to pay that in light of the District's current financial condition.

The cost of increasing the certificated bargaining unit salary schedule by 1% is approximately \$438,000. This includes the cost of statutory benefits related to payroll, and the two parties agree that this is a correct figure. The cost, therefore, of a 4.5% increase to the salary schedule is approximately \$1,971,000 for 2001-02.

District Exhibit 1, a summary of the District's Unaudited Actual Report, clearly indicates that the District had an unrestricted ending balance of \$9,004,565 for the 2001-02 fiscal year. Under AB 1200 the District was required to have a 3% reserve of \$3,645,547. The difference between the ending balance and the reserve amount of \$5,359,018 was clearly enough to cover the recommend amount for that and subsequent years.

District Exhibit 2, the District's estimated actuals for the 2002-03 fiscal year, shows the District conservatively estimating an unrestricted ending balance at the close of this fiscal year of \$11,624,319. Moreover, this exhibit also estimates the District's unrestricted ending balance to increase, very conservatively, by at least \$200,000 in the next fiscal year to \$11,832,409. Under recently passed state budget legislation, the District's required reserve amount for the current fiscal year is approximately \$1,755,000 due to reserve requirements being reduced for school districts for the 2002-03, and 2003-04 school years. The difference between the required reserve amount and the District's unrestricted ending balances is clearly sufficient to pay for both the retroactive cost and the ongoing cost of this recommendation.

District Exhibit 2 does designate about \$6,000,000 of its unrestricted reserve for "Reserve For Workers Comp and Liability Insurance". However, in a session with the Panel, the District representative explained that its Workers Compensation expert, an in house employee, verified that its self insured workers compensation fund already had reserves of over \$6,000,000 and that this additional designation was completely unnecessary.

In consideration of the above, the Panel finds that the resources exist now and on a continuing basis to fund this recommendation. Further, the Panel finds, in light of the disturbing evidence presented to it regarding the high level of non-credentialed teachers in the District as well as the high level of first and second year teachers in the district, that such an increase is necessary to attract qualified teachers to and retain qualified teachers in Inglewood Unified School District for the benefit of its children and educational program.

b. **Comparisons:** The classic and most important criterion found in the EERA, along with Financial Resources, are comparisons with employees in like employment in similar Districts. It is that labor pool, in this case the unified districts in the south bay and west Los Angeles County areas from and to which Inglewood teachers gravitate. Comparisons with other employees in such Districts, absent compelling information from other sources and criteria, is critical in arriving at equitable and acceptable salaries. In this case, the average negotiated/implemented increase in all 'Neighboring Districts' for 2001-02 was 3.86%. The range of increases for Unified districts was 2.60% to 4.00%.

While the District does expend approximately the 55% of total budget on teacher salary items mandated by the state, that number is among the lowest of all Districts in the area (the 2nd lowest of all LA County unified districts). IUSD teachers, on average, had the lowest salaries of all LA unified Districts (15th of 15 Districts). Compared with the 15 nearest Districts, both unified and others, IUSD teachers are in the lowest third. While the CPI increased only 2.675% during 2001-2002, with the Districts apparent significantly large unrestricted ending balance, the 4.5% recommendation permits the District teachers to 'catch up' in an uncertain time.

While the 6% proposed increase can be justified in terms of absolute numbers, it is clear that some consideration must be given to the overall past and current District financial ability. Thus, it is apparent that a lesser increase is consistent with the ongoing financial picture of the District. The 4.5% proposed increase, on-schedule, will begin to make up the salary deficit which currently exists.

Issue No. 2 - Psychologist Stipends for Additional Assessments

Recommendation: No change for 2001-2002

Rationale: The Association has proposed an increase in this stipend from \$300 per case to \$450.00. This is based principally on comparisons with other Districts which have stipends ranging from \$333 to \$462. The District has proposed no change in the stipend

based on its financial resources and the fact that contract Psychologists are currently available at the stipend rate. While the Panel Chair agrees with some portion of the District's position, it is most important that all available funds be utilized for overall certificated salary increases. The fact that there are outside contractors who will serve at the lower rate does not necessary mean that the \$300 should not be increased based on the important criterion of comparability

Issue No. 3 - PAR Program Changes

Recommendation: Implement two District Proposals on PAR, namely changing the current contract language to limited use of funds as follows: 'under no circumstances shall unrestricted general funds...' (add word 'unrestricted' to current language). Second, reduce the number of PAR Panel members to three, two selected by the teachers and one selected by the District.

Rationale: The funding recommendation will have the effect of limiting PAR funds available to the Panel solely to the state fund allocation. The reduction in PAR Panel members will have the effect of reducing the expenditure for Panel members who current receive a stipend for this activity. These proposals, which the Factfinding Panel recognizes would be implemented in 2003-2004, will, essentially, maximize the categorical funds the panel will have at its disposal for helping teachers improve at a time of greatly reduced state funding for the program. However, it will not allow the PAR panel to authorize a level of expenditures that would require the district to encroach into its unrestricted general fund. The parties can negotiate other changes in the PAR program in forthcoming bargaining. Due to the unique character of the issues in this impasse, the Chair has asked the other Panel members to indicate their comments, dissent, or concurrence on each issue and accompanying recommendations. Those are noted below.

SUMMARY OF RECOMMENDATIONS

Issue No. 1 - Salary Changes

Recommendation: That the salary schedule for 2001-2002 be increased by 4.5% over the prior year, retroactive to July 1, 2001.


Issue No. 2 - Psychologist Stipends for Additional Assessments

Recommendation: No change for 2001-2002

Issue No. 3 - PAR Program Changes

Recommendation: Implement two District Proposals on PAR, namely changing the current contract language to limited use of funds as follows: 'under no circumstances shall **unrestricted** general funds...' (add word 'unrestricted' to current language). Second, reduce the number of PAR Panel members to three, two selected by the teachers and one selected by the District.

The parties are urged to meet together forthwith to discuss and resolve all of the issues above either by accepting them, or modifying them to conform to their mutual interests. The Panel will retain jurisdiction over implementation of these **Recommendations** solely to resolve differences between the parties regarding their interpretation.

Respectfully Submitted, 

Philip Tamoush, Panel Chair
September 8, 2003

Dissent (in part)

Concur

/s/ Lacy Alexander

/s/ Lee Lipps

Lacy Alexander

Lee Lipps

Attachment

Dissent of Lacy Alexander, District Appointed Member to the Factfinding Panel

I hereby respectfully dissent to the Factfinding recommendations of the Factfinding Panel Chairperson and the Inglewood Teachers Association's Appointed Member to the Factfinding Panel.

First of all, the Factfinding Panel Chairperson has misunderstood the difference between unrestricted continuing funds and unrestricted "one-time" non-continuing funds.

The unrestricted ending balance for 2001-2002 was comprised, primarily of the District's 4 percent reserve for economic uncertainty (\$4.8 millions) and \$3.2 million undesignated funds. The balance of approximately \$1 million constituted revolving cash, stores and \$600,000 designated for Class Size Reduction disallowance.

This \$3.2 million became part of the beginning balance for the 2002-2003 school year.

The unrestricted ending balance for 2002-2003 was projected to be comprised, primarily of the District's 4 percent reserve for economic uncertainty and a \$5.7 million reserve for Workers' Compensation and Liability Insurance.

The \$3.2 million unallocated amount at the end of 2001-2002 was budgeted and expended during 2002-2003.

The \$5.7 million reserve for Workers' Compensation and Liability Insurance was unrestricted "one-time" non-continuing funds. These funds were not unrestricted continuing funds that could be allocated for a salary schedule increase. These funds, or at least some of these funds* could be allocated for a salary increase not placed on the salary schedule. Even so, the Inglewood Teachers Association has insisted that it will not accept an "off the salary schedule" increase.

As a result, the District does not have continuing funds for a 4.5 percent salary schedule increase recommended by the Factfinding Panel Chairperson.

I, therefore, recommend the District grant a 4 percent increase. Hopefully, the District can place this 4 percent on the salary schedule by making expenditure reductions in the 2003-2004 budget.

There are no longer any funds remaining from the 2001-2002 budget. Any such funds were part of the 2002-2003 budget year which is required by law. The same is correct with respect to the 2002-2003 budget.

Any salary increase can only be provided from funds in the 2003-2004 budget.

I also dissent from the Chairperson's recommendation regarding the Peer Assistance and Review Program (PAR). As to the Psychologist recommendation, I concur.

Respectfully submitted,

/s/ Lacy Alexander

Lacy Alexander, September 8, 2003
District Dissenting Member of the
Factfinding Panel